



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/820,913

04/08/2004

Daniel Kletensky

10541-2028

8759

29074

7590

08/07/2006

EXAMINER

NEGRON, ISMAEL

VISTEON

C/O BRINKS HOFER GILSON & LIONE

PO BOX 10395

CHICAGO, IL 60610

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/820,913

Applicant(s)

KLETENSKY ET AL.

Examiner

Ismael Negron

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on June 2, 2006 has been entered. Claims 2-5 have been amended. Claim 1 has been cancelled. No claim has been added. Claims 2-5 are still pending in this application, with claim 2 being independent.
2. The drawings were received on June 2, 2006. These drawings are not acceptable.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the mechanical structure or arrangement (i.e. the combination and location of pivots and actuation points) enabling rotation of the low and high beam light chambers as described in the specification. Patentability of the claimed invention seems to pivot on the mechanical structure providing concurrent vertical adjustment of the low and high beam light chambers, and independent horizontal adjustment of the low light beam chamber. The claimed structure is allegedly reduces the number of action members, decreases the weight of the whole headlamp, increases the life of the mechanism and provides a lower costs. However, such mechanical structure is not shown by the drawings. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 2-3 are rejected under 35 U.S.C. 102(b) as being anticipated by MOCHIZUKI et al. (U.S. Pat. Pub. No. 2002/0097585).

6. MOCHIZUKI et al. discloses a vehicle headlamp having:

- **a low beam operational mode (as recited in Claim 2),** paragraph 47, lines 1-7;
- **a high beam operational mode (as recited in Claim 2),** paragraph 47, lines 1-7;
- **a low beam light chamber (as recited in Claim 2),** Figure 1, reference number 13;
- **a high beam light chamber (as recited in Claim 2),** Figure 1, reference number 19;
- **the low beam light chamber having a discharge light source (as recited in Claim 2),** Figure 1, reference number 16;
- **a vertical adjusting action member (as recited in Claim 2),** Figure 2, reference number 11;
- **the low and high beam light chambers being vertically adjusted by means of the vertical adjusting action member (as recited in Claim 2),** as evidenced by Figure 2;
- **a horizontal adjusting action member (as recited in Claim 2),** Figure 2, reference number 23;

- **the low beam light chamber being horizontally adjusted by means of the horizontal adjusting action member (as recited in Claim 2), as seen in Figure 2;**
- **the vertical adjusting action member forming part of an automatic adjusting system (as recited in Claim 2), paragraph 43; and**
- **the horizontal adjusting action member forming part of a mechanism allowing the horizontal swiveling of the low beam light chamber (as recited in Claim 3), inherent.**

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over MOCHIZUKI et al. (U.S. Pat. Pub. No. 2002/0097585).

8. MOCHIZUKI et al. discloses a vehicle headlamp having:

- **a low beam operational mode (as recited in Claim 2), paragraph 47, lines 1-7;**

- **a high beam operational mode (as recited in Claim 2),**
paragraph 47, lines 1-7;
- **a low beam light chamber (as recited in Claim 2),** Figure 1,
reference number 13;
- **a high beam light chamber (as recited in Claim 2),** Figure 1,
reference number 19;
- **the low beam light chamber having a discharge light source**
(as recited in Claim 2), Figure 1, reference number 16;
- **a vertical adjusting action member (as recited in Claim 2),**
Figure 2, reference number 11;
- **the low and high beam light chambers being vertically**
adjusted by means of the vertical adjusting action member (as
recited in Claim 2), as evidenced by Figure 2;
- **a horizontal adjusting action member (as recited in Claim 2),**
Figure 2, reference number 23; and
- **the low beam light chamber being horizontally adjusted by**
means of the horizontal adjusting action member (as recited in
Claim 2), as seen in Figure 2; and
- **a halogen light source provided in the high beam light**
chamber (as recited in Claim 5), Figure 1, reference number 20.

9. MOCHIZUKI et al. discloses all the limitations of the claims, except switching of the halogen light source being delayed after switching on the high beam light operation mode (as recited in Claim 4).

10. It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to delay switching of the halogen light source after the high beam light operation mode is activated (as recited in Claim 4) to enable the adjustment of the light chamber to be executed before turning the light on and preventing a scanning illumination pattern.

Foreign Priority

11. The applicant is advised that the foreign priority papers cannot rely upon to overcome the rejections made of record (sections 11-16, above) because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Response to Arguments

12. Applicant's arguments filed June 2, 2006 have been fully considered but they are not persuasive.

13. Regarding the Examiner's rejection of Claim 1 (subject matter now presented in amended Claim 2) under 35 U.S.C. 102(b) as being anticipated by MOCHIZUKI et al. (U.S. Pat. Pub. No. 2002/0097585), the applicant argues that the cited reference fails to

disclose all the features of the claimed invention, specifically the vertical adjusting member being part of an automatic adjusting system.

14. Regarding the Examiner's rejection of Claim 4 under 35 U.S.C. 103(a) as being unpatentable over MOCHIZUKI et al. (U.S. Pat. Pub. No. 2002/0097585), the applicant present no arguments, except stating that such claim depend directly or indirectly from independent Claim 1 and would be allowable when/if the independent claim is allowed.

15. In response to applicant's arguments that MOCHIZUKI et al. failed to disclose individually, or suggest in combination, the vertical adjusting member being part of an automatic adjusting system, the applicant is respectfully advised that while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 70 USPQ2d 1827 (Fed. Cir. May 13, 2004).

In this case, MOCHIZUKI et al. discloses an automatic vehicle headlamp adjusting system including a horizontal adjusting member 23 and a vertical adjusting member 11 being part of such system. The horizontal adjusting member 23 is driven in response to a steering operation of the vehicle to follow a curved road (see paragraph 43). While the applicant might be right in that the vertical adjusting member 11 is manually actuated, such member is still part of the patented automatic adjusting system of MOCHIZUKI et al., and as such anticipates the claimed limitations.

In addition, the applicant is advised that even if the language of the claims required the vertical adjusting member to be automatically actuated, which it does not, the claims would still be unpatentable as it has been held by the courts that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. *In re Venner*, 120 USPQ 193 (CCPA 1958). Automatically adjusting vehicle headlamps is old and well known in the art, as evidenced by the prior art already made of record in Section 18 of the previous Office Action (mailed March 2, 2006).

Conclusion

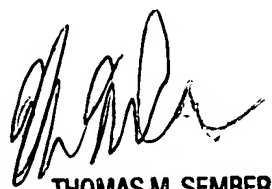
16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

17. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negrón whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached at (571) 272-2378. The facsimile machine number for the Art Group is (571) 273-8300.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.



THOMAS M. SEMBER
PRIMARY EXAMINER



Ismael Negrón
Examiner
AU 2875